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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,481	06/27/2001	Kazumi Suga	1232-4730	5929
27123	7590	01/17/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			SHERR, CRISTINA O	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/894,481	Applicant(s) SUGA, KAZUMI	
	Examiner Cristina Owen Sherr	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-39 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-39 and 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to applicant's amendment filed October 25, 2005. Claims 34 –39 and 50 are pending in this case. Claims 40-49 and 51 have been withdrawn in response to a restriction requirement. Claims 34, 37, and 50 have been amended.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 25, 2005 has been entered.

Response to Arguments

4. Applicant's arguments with respect to claims 34-39 and 50 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 34-39 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogilvie, U.S. Patent No. 6,343,738 B1 in view of Kopelman et al, U.S. Patent Application Publication No. US 2004/0138966 A1.

5. As per claims 34, 37 and 50, Ogilvie discloses an information processing system capable of sending electronic contents between a buyer-side apparatus and seller-side apparatus via a network, comprising:

- a software program for evaluating the electronic contents by the seller-side apparatus (Col. 13, lines 25-35);

- first receiving means for receiving an evaluation result evaluated by the evaluating program sent from the seller-side apparatus (Figures 5 and 8; Col. 2, lines 15-26; Col. 11, lines 35-67; Col. 13, lines 25-35; Col. 14, lines 5-12; Col. 14, lines 57-63);

- second sending means for sending apparatus the received evaluation result to the buyer-side apparatus (Figure 8; Col. 12, lines 50-60; Col. 14, lines 5-12; Col. 14, lines 57-63);

- second receiving means for receiving condition of purchase sent from the buyer-side apparatus (Col. 6, lines 50-60; Col. 12, lines 15-27; Col. 25, lines 43-50; Col. 26, lines 27-35);

- third sending means for sending the received condition of purchase to the seller-side apparatus (Col. 12, lines 15-27; Col. 25, lines 43-50; Col. 26, lines 27-35);

- third receiving means for receiving the electronic contents sent from the seller-side apparatus in response to the reception of the condition of purchase (Col. 6, lines 35-50; Col. 25, lines 43-50; Col. 26, lines 27-35);

- fourth sending means for sending the received electronic contents to the buyer-side apparatus (Col. 12, lines 15-27; Col. 25, lines 43-50; Col. 26, lines 27-35).

6. Ogilvie discloses the use of a software program to evaluate the electronic contents such as generating samples of the content (Col. 13, lines 25-35), however, fails to specifically disclose sending the software program from the information processing system to the seller-side apparatus. Examiner submits, however, that it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide the software tools to the seller apparatus for evaluating/inspecting the electronic contents and generating samples. These software tools are conventionally known as disclosed by Ogilvie and it would have been obvious for the seller to acquire these tools or to provide the seller these tools by the system.

7. As per Claims 35 and 38, Ogilvie further discloses the use of encryption for encrypting information transmitted between the participants (Col. 9, lines 65-67; Col. 17, lines 56-61; Col. 20, lines 40-50).

8. As per Claims 36 and 39, Ogilvie fails to explicitly disclose a means for sending a cryptography key to the seller side apparatus and wherein the received electronic contents have been encrypted by using the cryptography key. Ogilvie does disclose, however, that encryption and the use of public keys are familiar tools that can be used to provide secure communications between the parties and the broker. Examiner takes Official Notice that using a cryptography key that is provided to the parties is well known in the art and it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a cryptography key in order to encrypt the communications between the parties in an effort to secure the information.

9. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

COS

Cristina Owen Sherr
PRIMARY EXAMINER